



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, NY 10007

January 27, 2023

By ECF

The Honorable James L. Cott
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *International Refugee Assistance Project v. Dep't of Homeland Security, et al.*,
No. 21 Civ. 9519 (JLC) (S.D.N.Y.)

Dear Judge Cott:

We write jointly with plaintiff International Refugee Assistance Project (“IRAP”) to provide a status update in accordance with the Court’s order dated November 7, 2022, Dkt. No. 35. This matter involves Freedom of Information Act (“FOIA”) claims brought against the U.S. Department of State (“State”) and U.S. Citizenship and Immigration Services (“USCIS”) as well as Administrative Procedure Act (“APA”) claims brought against State and the U.S. Department of Homeland Security (“DHS”). Since the parties’ last status report, Dkt. No. 34, the parties have continued to work cooperatively and have again reached agreement regarding next steps in the litigation. Accordingly, and as outlined below, we respectfully propose to file a further status report by **February 27, 2023**, to further update the Court on the progress of this litigation.

Agencies’ Status Update on the FOIA Claims: Since the parties’ last status report, USCIS and State completed their responses to the FOIA requests submitted by IRAP, subject to any questions or concerns that IRAP raises about those productions.

IRAP intends to provide USCIS with correspondence indicating whether it has any concerns with USCIS’s productions by February 10, 2023. The parties will then work to determine whether any issues identified can be resolved amicably.

State continues to investigate whether additional responsive documents exist in response to questions raised by Plaintiff in January 2023. On January 25, IRAP also requested that State provide an index of the FOIA exemptions that it applied when processing its November and December 2022 productions to IRAP. The parties are currently working to limit the issues that need to be addressed in that index. Once the scope of the index has been negotiated, State intends to propose a deadline by which it will produce a draft index, in order to facilitate a potential consensual resolution of any withholding issues that arise.

Agencies' Status Update on the APA Claims: State and DHS have both completed their reviews of their public Major Information Systems websites for compliance with the APA and FOIA's Major Information Systems requirement, 5 U.S.C. § 552(g), subject to any questions or concerns that IRAP raises about those websites. Those websites are available at <https://foia.state.gov/Learn/MIS.aspx> and <https://www.dhs.gov/publication/dhs-major-information-systems-mis>.

IRAP has informed DHS that it continues to have concerns about DHS's criteria for identifying Major Information Systems, which it intends to reduce to writing by February 10. The parties intend to discuss those concerns once they have been shared with DHS. IRAP continues to review State's Major Information System listing to determine whether it believes that this page meets the requirements of 5 U.S.C § 552(g)

Parties' Update on Next Steps: Defendants and IRAP plan to continue to work together to see whether any remaining issues can be resolved without litigation. To facilitate this process, the parties propose to submit a further status update to the Court by **February 27, 2023**.

We thank the Court for its attention to this matter.

Respectfully,

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